

1 Amend 2 Cal. Code Regs. section 18701 to read:

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3 **18701. Public Official, Definitions**

4 (a) For purposes of Government Code ~~S~~section 82048, which defines “public  
5 official,” and Government Code ~~S~~section 82019, which defines “designated employee,” the  
6 following definitions apply:

7 (1) “Member” shall include, but not be limited to, salaried or unsalaried members of  
8 committees, boards or commissions with decisionmaking authority.

9 (A) A committee, board or commission possesses decisionmaking authority  
10 whenever:

11 ~~(A)~~ 1. It may make a final governmental decision;

12 ~~(B)~~ 2. It may compel a governmental decision; or it may prevent a governmental  
13 decision either by reason of an exclusive power to initiate the decision or by reason of a  
14 veto that may not be overridden; or

15 ~~(C)~~ 3. It makes substantive recommendations that are, and over an extended period  
16 of time have been, regularly approved without significant amendment or modification by  
17 another public official or governmental agency.

18 (B) A committee, board, or commission does not possess decisionmaking authority  
19 under subsection (1)(A)(1) of this regulation if it is formed for the sole purpose of  
20 researching a topic and preparing a report or recommendation for submission to another  
21 governmental body that has final decisionmaking authority.

22 (2) “Consultant” means an individual who, pursuant to a contract with a state or  
23 local government agency:

24 (A) Makes a governmental decision whether to:

25 1. Approve a rate, rule, or regulation;

26 2. Adopt or enforce a law;

27 3. Issue, deny, suspend, or revoke any permit, license, application, certificate,  
28 approval, order, or similar authorization or entitlement;

29 4. Authorize the agency to enter into, modify, or renew a contract provided it is the  
30 type of contract that requires agency approval;

31 5. Grant agency approval to a contract that requires agency approval and to which  
32 the agency is a party, or to the specifications for such a contract;

1           6. Grant agency approval to a plan, design, report, study, or similar item;

2           7. Adopt, or grant agency approval of, policies, standards, or guidelines for the  
3 agency, or for any subdivision thereof; or

4           (B) Serves in a staff capacity with the agency and in that capacity participates in  
5 making a governmental decision as defined in Regulation 18702.2 or performs the same or  
6 substantially all the same duties for the agency that would otherwise be performed by an  
7 individual holding a position specified in the agency's Conflict of Interest Code under  
8 Government Code Section 87302.

9           (b) For purposes of Government Code Section 87200, the following definitions  
10 apply:

11           (1) "Other public officials who manage public investments" means:

12           (A) Members of boards and commissions, including pension and retirement boards  
13 or commissions, or of committees thereof, who exercise responsibility for the management  
14 of public investments;

15           (B) High-level officers and employees of public agencies who exercise primary  
16 responsibility for the management of public investments, such as chief or principal  
17 investment officers or chief financial managers. This category shall not include officers and  
18 employees who work under the supervision of the chief or principal investment officers or  
19 the chief financial managers; and

20           (C) Individuals who, pursuant to a contract with a state or local government agency,  
21 perform the same or substantially all the same functions that would otherwise be performed  
22 by the public officials described in subdivision (b)(1)(B) above.

23           (2) "Public investments" means the investment of public moneys in real estate,  
24 securities, or other economic interests for the production of revenue or other financial  
25 return.

26           (3) "Public moneys" means all moneys belonging to, received by, or held by, the  
27 state, or any city, county, town, district, or public agency therein, or by an officer thereof  
28 acting in his or her official capacity, and includes the proceeds of all bonds and other  
29 evidences of indebtedness, trust funds held by public pension and retirement systems,  
30 deferred compensation funds held for investment by public agencies, and public moneys  
31 held by a financial institution under a trust indenture to which a public agency is a party.

1 (4) “Management of public investments” means the following nonministerial  
2 functions: directing the investment of public moneys; formulating or approving investment  
3 policies; approving or establishing guidelines for asset allocations; or approving investment  
4 transactions.

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6 COMMENT: In limited circumstances, the members of a nonprofit organization may be  
7 “public officials.” (*In re Siegel* (1977) 3 FPPC Ops. 62.)

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9 Note: Authority cited: Section 83112, Gov. Code.

10 Reference: Sections 82019, 82048, 87100, 87200, 87302, Gov. Code.